



David B. Cohen
Mayor

CITY OF NEWTON, MASSACHUSETTS

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CONSERVATION COMMISSION MEETING

January 24, 2008
Beginning at 7:30 p.m.
Room 209, City Hall

MEMBERS PRESENT: I. Wallach, Chair, R. Freed, V-Chair, R. Matthews, S. Lunin, Dan Green, Associate: J. Hepburn

MEMBERS ABSENT: N. Richardson, D. Dickson

MEMBERS OF THE PUBLIC: See attached sign-in sheet.

1. Newton Terraces – request for Estoppel Certificate for CR

UPDATED -Planning review memo attached.

Meeting: Anne reported that she had received the Terrace's request for an Estoppel certificate several months ago, and had been reviewing the file and had gone on several site visits to the Terraces, both with Terrace manager(s), other city employees and Ward 6 Alderman, Victoria Danberg. Planning is following up with some details about the path, including request for an as-built that shows slight changes in the location of the path and the path easement. The Law Department concurs with me that, with recording of the Conservation Restriction, removal of the chain-link fence, and creation of the path, the conditions of the Board Order with regard to Conservation have been met. Sarah Barnett, neighbor of the Terraces did not think the Commission should sign the Estoppel certificate until all questions had been answered, and asked how the Commission could guarantee that the restriction would be guaranteed 'in perpetuity.' I. Wallach replied that the courts would enforce it.

Vote: Motion by D. Green to sign the Estoppel Certificate. R. Freed seconded. Vote: All in favor. Motion passed.

2. Letter of Recommendation to Community Preservation Committee – for grant of \$10,000 to Planning & Development for funds to develop inventory of Historic Landscapes in Newton.

Meeting: Amy Yuhaz from Planning presented and said the funding requested is to pay a consultant to develop criteria and to compile a list of historic landscapes that would be used in the update of the Open Space Plan. Such landscapes, which might not rank high as desirable open space acquisitions, would have a chance to be considered for protection as historic sites, instead. Planning is also asking that the Commission recommend several people who would be knowledgeable to work with the consultant to help develop the inventory. Discussion followed, in which there was some concern that such 'landscapes' would compete with other 'open space' for acquisition (and limited funds). The Environmental Planner said that Commission was created to protect open space and the city might want to protect fields where famous battles were fought, cemeteries, and

Conservation Commission

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other sites that would not fit well or rank high as “open space” but that would rank high as historic sites. I. Wallach noted the commission already has an open space plan, and this recommendation might not be in the best interest of the commission. A. Yuhaz said that part of the intention is that the inventory of historic landscapes *will* be included in the next Open Space Plan for Newton.

Vote: Motion by R. Freed to approve a letter of support. S. Lunin seconded. Vote: 4:1 in favor. I. Wallach opposed. Motion passed.

3. 128 Cabot St – NOI for foundation repair and install new basement entrance in flood zone-continued from Nov. 15.

Report: - **UPDATED** – revised plan stamped by engineer that shows approximate storage area created by owner’s report of asphalt and soil removed.

Meeting: Robert Young (owner) presented and said the engineer calculated how much material was removed from the corner of the house, which would bring total to more than he proposes to fill by closing gap and extending retaining wall in front of basement. He brought in a letter from his neighbor (Sherry Klein) that she witnessed the excavation by Mr. Young. The commission observed that this abutter is the most likely to be affected by changes in flood water height. City Engineer report on revised plan (emailed to commission after regular packet sent out) said he advised that, since fill (in particular, that adjacent to driveway) was removed prior to filing, they could not confirm the amount of fill removed and recommended owner provide additional compensatory storage to compensate. The commission, following discussion, said it boiled down to believing the applicant or not.

Vote: Motion by R. Matthews to “believe the applicant” and his estimate of compensatory storage provided. R. Freed seconded. Vote: All approved. Motion passed.

4. 332 Williams St – NOI for demolition of existing house and construction of a two-family house in the 100 ft buffer zone to bordering vegetated wetland and in the 200 riverfront to the Charles- continued from Nov. 15

Report: -DEP file number and comments received; no new information provided by applicant.

Meeting: Staff reported that Mr. Ruti Robart had requested a continuance until the next meeting, which was accepted by the commission.

5. 284 Franklin St. – RDA for deck in buffer zone to bank & possible 200 ft riverfront area- use of bobcat to remove existing support columns and install new ones

Report: Site visit 12-6-07 and stream flowing in brook. GIS shows perennial stream with 200 ft riverfront, but on old city maps, Hyde Brook does not flow into any other water-body, and is intermittent. This portion of the brook is lined, and may have been moved in the past. The work proposed (two decks) is just over 50 ft from the top of bank. Holes will be hand dug or a small bobcat used. Small brick wall separates deck on the east side from stream. Deck on west side probably far enough from stream, that even with fairly steep slope toward bank, there should be no problem with siltation of the stream. Recommend neg. determination on work.

Meeting: Kevin Allen (contractor) and Dan O’Neill (property owner) presented and said they are asking for a determination on the work. Work is just over 50 ft from the top of bank of Hyde Brook and within the 200 ft riverfront for Hyde Brook. Staff reported on site visit and recommended that with erosion and sediment control in place there should be no impact to the bank or stream, so negative determination #2 or #3 would be appropriate.

Vote: Motion by R. Freed to issue a negative determination #2. Seconded by D. Green. Vote: All in favor. Motion passed.

6. 526 Quinobequin Rd- RDA for addition to house in riverfront of the Charles R.

Report: The proposed work is in the outermost portion of the riverfront (and out of flood zone) to the Charles.

The house lies between the work and the river, and the work proposed will increase the impervious surface by less than 100 sf. The area has a very slight slope beside the house along the driveway to the street.. Rec. neg. determination on the work, if any stockpiled, excavated material is covered with a tarp to prevent being washed into the street (and local storm drain(s))

Meeting: Russell Waldron (wetland consultant) represented the owner (also present) and said there will be no expansion of the footprint, since the newly roofed expansion of the entryway is already paved. Staff described work as being at very outer edge of riverfront on side of house away from river and recommended negative determination #2 for proposed work. However, applicant asked for determination of resource areas on form. Discussion followed and owners agreed approval of delineation (top of bank for Charles, and floodplain) not necessary. Engineering had no negative comments.

Vote: Motion by D. Green to issue negative determination on the work. S. Lunin seconded. Vote: All approved. Motion passed.

7. 21 & 23 Cross St – NOI is “after-the-fact” filing for new shed on sono-tubes in riverfront, flood zone, and the 100 ft buffer to bank of Cheese Cake Brook.

Report: Shed was built without filing with conservation or getting necessary city permits. Alternatives analysis submitted and there is an alternative site for the shed in the outer 100 ft riverfront at the northeast side of the house. Floor of shed is concrete (on concrete pilings), so shed now cannot be moved. Pilings, concrete steps, and concrete ramp stop require compensatory storage, which is proposed to go alongside driveway, adjacent to new retaining wall. Review of the revised plan shows new flood storage area of 449 CF (not counting the removal of the 3 boulders). The storage lost was 387 CF when you add the new wall. 449 CF > 387 CF therefore OK by engineer review.

Meeting: Antonio DeSantis (applicant) represented (Joe Porter of VTP arrived later with abutter notification receipts). He told the commission he built the shed to house lawn equipment, and the only other spot for the shed (that is out of the 100 ft riverfront) is the children’s play area. Mr. DeSantis said he had to provide mitigation plantings for house along bank of Cheesecake Brook. Discussion of whether alternatives analysis appropriate or whether re-development. Since floor of shed is concrete and attached to poured sono-tubes it is impractical to move shed. Discussion of whether applicant willing to offer mitigation and what would be acceptable to commission. Commission asked what is size of shed. Applicant said shed is 10 x 17 ft, so it is 117 sf. Commission agreed to OOC with special conditions: Must submit planting plan to Environmental Planner showing location of mitigation planting w/area equal to sq ft of shed, with perhaps more planting along the brook. Must provide time frame, species, size and number of plants. OOC must provide maintenance of plantings as on-going condition. Owner present and agreed.

Vote: Motion by R. Freed to sign OOC, but Env. Planner will not issue until above conditions are met. D. Green seconded. Vote: All in favor. Motion passed.

8. 40 Olde Field Rd – NOI for addition to single family house, widening of driveway, and related site grading in the 200 ft riverfront area and the 100 ft buffer to bank of Paul Brook

Report: Proposed alteration to riverfront 3,400 sf, is almost as much as existing house. Do not know if proposed addition to patio included in calc of total alteration. About 2/3, or 2230 sf of the proposed increase is in the first 100 ft of riverfront and buffer to inland bank. Work will need to be reviewed by the Newton Historic Comm. (not done yet). Leaching area proposed under driveway to inject a portion of roof run-off into ground - no perc test submitted and engineering will require it, so plan could change. Alternatives analysis does not consider other alternative (building up rather than out, for example).

UPDATED with revised plan offering 5 ft strip for native plantings to be planted under existing trees adjacent to Paul Brook.

Meeting: Bruce Landon, owner, presented and described proposed work to add an addition, new garage and grading. Receipts from abutter notification were supplied. The proposal includes new leaching galleys for storm water under the driveway extension. Discussion of new plan submitted showing proposed planting strip and riverfront requirements regarding mitigation read by Sr. Planner. Commission asked applicant to provide

calculations of amount of total increase (or change) in impermeable surface, amount that is replacing (redevelopment) previous impervious, and amount of new work taking place in lawn area. Applicant agreed to continue to next meeting.

Violations

1203&1211 Washington – a silt curtain is installed and removal of contaminated soil is scheduled to resume when weather permits, with DPW work to start after the by-pass pump is installed. Clarification & elaboration on follow-up directives under EO needed (recommended classes for DPW re 21E response & stream improvement re habitat for invertebrates).

UPDATED: My understanding is that site has a release tracking number (and no sign off from DEP) for prior determination of contaminated soil. Therefore, owner should have included such information to DEP and the ConCom when they filed, since proposed work will disturb soils on site. Owner should have provided plan to deal with contamination discovered during construction. Question now is whether storm water re-charge is appropriate for site.

Meeting: Sr. Planner asked Commission to consider what they want from Mr. Donato as mitigation for pollution of brook – N. Richardson had some suggestions that need to be discussed when he is present. Planner has reviewed preliminary report by Doug Heeley, Mr. Donato's LSP, and discussed it with the Environmental Engineer, Maria Rose. The preliminary report is that Mr. Heeley believes the minimal amounts of petroleum products detected were in the fill used to create the parking lot and did not result from recent activity on the site. About a truckload of material will be removed from the site. The Commission approved the Planner to send a letter to Mr. Donato and his LSP asking them to address the Commission at its next meeting regarding whether it is still appropriate to infiltrate storm water on the site.

15 Harwich Rd– the sprinkler heads appear to be gone, but no other conditions of EO appear to have been met, and permits required from engineering have not been obtained. EO must be signed so Law Dept has original for recording at registry.

Meeting: The Commission signed a new original EO for recording at the Registry.

160 Pine St – plans submitted for relocation and repair of wall are not suitable for engineering review or filing; they are having new plans prepared.

93 Andrew St – applicant submitted planting plan & staff approved; engineering must approve dry well.

Boylston St. Condo – restoration work has begun; BOH checking as ABC fill removed. When all work is done, a layer of topsoil will be spread, and temporary stabilization methods employed until the weather warms enough for seeding.

Certificates of Compliance

47 Bernard St – addition on pilings in riverfront and flood zone; all work completed & site re-stabilized. No continuing conditions.

Meeting: No one present to represent.

Vote: Motion by R. Matthews to issue Certificate. Second by R. Freed. Vote: All approved. Motion passed.

423 Albemarle Rd– house addition in riverfront; all work completed & site re-stabilized. No continuing conditions.

Meeting: No one present to represent.

Vote: Motion by R. Freed to issue Certificate. Second by R. Matthews. Vote: All approved. Motion passed.

107 Pine Street – subdivision with associated drainage structures – site visit conducted; awaiting proof OOC recorded...

UPDATED – proof OOC recorded has been supplied; revised as-built supplied. All conditions met.

Vote: Motion by I. Wallach to issue Certificate. Second by R. Freed. Vote: All approved. Motion passed.

Announcements & General Business:

MACC spring conference –any members of CC wishing to attend?

Meeting: A. Phelps reported that the conference fee can be paid by the Wetlands Protection Fund. She and D. Green will attend and report to the Commission.

Non-criminal ticketing – In order to ticket, must have ordinance on the books. Newton does not have WPA ordinance, just floodplain ordinance. Must ask BOA to approve various provisions of WPA. Courts have ruled that can have ordinance (prevail) when ordinance more strict than WPA, else WPA prevails.

Meeting: Postponed to later meeting.

November 15, 2007 Meeting Minutes for approval

Meeting: Vote: Motion by I. Wallach to issue Certificate. Second by R. Freed. Vote: All approved. Motion passed.

Outstanding issues – discussion – None

Respectfully submitted,

Anne Phelps, Sr. Environmental Planner